

MINUTES

P & Z COMMISSION HEARING

September 20, 2007

ATTENDANCE P & Z Commissioners

ATTENDED

1. **John Dalton, Chairman**
2. **Ruth Ann Smith**
3. **Wendell DeCross**
4. **Robert Ingels**
5. **Joel Lawson**
6. **Tom Thomas**

ABSENT

Carol Davis
Evelyn M. Meadows
Jason Hatch
Rick Slone

Staff Attendance

1. Jim Matteson, Navajo County Engineer
2. Telford Chapman, Planner II
3. Peggy Saunders, Secretary

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona - Time 6:05 p.m.

John Dalton called the meeting of the Navajo County Planning & Zoning Commission to order and explained the meeting procedures to the public. **Mr. Dalton** then led the Pledge of Allegiance.

Item # 1 - ZONE CHANGE: Discussion and possible Commission action on a request by Gerald Perkins for a Zone Change from A-General to C-R Zoning, for the subject property located at, APN: 208-14-019 in Township 11 North, Range 19 East, Section 15 of the Gila and Salt River Meridian, in the Clay Springs area. The general character of the neighborhood is a low density residential area located south of Highway 260 off of Sawmill Road, at the west end of Clay Springs. The area is covered with Juniper trees and a few pine trees. The current zoning is A-General with the acceptable uses listed as, single-family dwellings, churches, schools, parks, playgrounds, and community facilities. The stated reason for the request is a Zone Change to C-R (Commercial-Residential) to allow commercial use of this property. The parcel will be utilized for the sale and storage of RVs. This use is *not* permitted in the current A-General zoning district, and Staff believes this would constitute *spot zoning*. The principal purpose of the C-R zoning district is to provide for shops and services in convenient locations, to meet the daily needs of families in the immediate residential neighborhoods. The Engineering Division Staff also has concerns that the re-zoning of this parcel to C-R would be *spot zoning*. The proposed Zone Change to C-R is inconsistent with the uses and densities of the surrounding area. The Flood Control Staff has no objections to the proposed Zone Change. The FEMA map, 2302B dated 6/1/82 does not indicate any flood hazards on the parcel. Planning and Zoning Division has concerns again with the *spot zoning*. Staff would encourage commercial zoning in node areas with other similar uses. Staff recommends DENIAL for the following reasons: 1. The proposed zone change, if approved, would constitute spot zoning, as no other property in the immediate area is zoned commercial, or specifically intended for commercial development under the provisions of the general plan. 2. The proposed Zone Change to C-R is inconsistent with the uses and densities of the surrounding area. 3. Staff has concerns with safe access from SR-260. **Telford Chapman** displayed an aerial map of the area as well as the proposed site plan. Staff has reviewed the General Plan regarding this site, and it was determined that the C-R zoning is not a use that is within the designated plan for this area. The zoning map was displayed showing the current zoning as A-General and the surrounding area as residential. Because of these reasons Staff again, recommends DENIAL for this zone change.

Applicant/Developer, **Gerald Perkins**, spoke to the commission and stated that he was a little bit shocked at the recommendation. He has talked to individuals in the area and they thought it looked good, and didn't see any reason to deny this, but now to hear that the staff recommendation is denial came as a surprise to him. He and his brothers bought the property many years ago with the intent of developing it, but now they are afraid the chance to develop is gone. They

just want to get rid of the property and sell it to someone with ideas who wants to develop the property. Mr. Perkins felt that this would be a benefit to the area. There is an Auction Area further down from his property that he assumed was zoned commercial, there is a ministorage going in and a market; is he to understand those commercial areas are spot zoning? This property is on the highway, and he can't imagine anyone wanting to build a house on the property, and he is still struggling with why "these people" are recommending denial.

In Favor: **Gene Wilson** would like to purchase this property from Mr. Perkins, and use it to run an eBay business to sell newer high-end motor homes. He would use the property as a sales office and drop off place to store the vehicles until the new owners can pick them up. Most of the units would sell for \$30,000 to \$100,000 per unit. This could generate a significant amount of sales tax for Arizona, and they generally sell 3 to 10 units per month. These are newer vehicles manufactured from 2000 and up. There will be no repairs or refurbishing done on the property; they are not in the repair business. Vehicles will be brought to the site until the owners pick them up. This would be a pick-up/drop-off point; and would be a very unobtrusive business, with some traffic off the highway. Mr. Wilson indicated that he would also sell to those driving by, but this is mainly an eBay business. They don't need water or electric on the property the office is self contained with a generator and bathroom facilities. Those are the only plans for the site; they have no other reason to develop this site. Mr. Wilson and his wife moved to the Overgaard area about a year ago, and they would like to move their business to this area.

In Opposition: No one from the public came forward to speak in opposition of the zone change.

Gerald Perkins added that he hasn't heard of any opposition, but the neighbor who owns the large parcel next to the property talked with him to find out what was planned, and had no objections to their plan.

Staff Final Comments: **Telford Chapman** received one e-mail letter from a parcel owner in the area who expressed concern that whatever was done on the property should be kept in a neat and orderly manner, and was not specifically in opposition of the zone change. In looking at the area, Mr. Chapman agreed there are a few commercial uses in the area, but some have been there for many years prior to zoning being implemented. Also, there are Special Use Permits, such as the Peterson Mini-Storage Units which was approved in the last few months, that is more of a specific use, and would be beneficial to the community in that area. That was one of the reasons for recommending that Special Use Permit. There are more appropriate locations for commercial zoning in that area and that is why they are recommending denial.

Wendell DeCross asked for clarification on the location of the other commercial sites mentioned, specifically on Sawmill Road. **Mr. Chapman** displayed the aerial map and pointed out the different locations questioned and explained that there is no commercial zoning on Sawmill Road or anywhere in that area. There were some Special Use Permits issued, for the mini-storage, and an application for a tower that was not implemented. **Mr. DeCross** restated, other than Spears, there is no commercial zoning in the Clay Springs area; then asked, since Clay Springs is growing, shouldn't commercial zoning be considered for this area to serve the residents? **Mr. Chapman** agreed that there is a need for uses that would be a specific benefit for that area, but the General plan does not call for commercial uses in that area. **Mr. DeCross** referred to the Comprehensive Plan for Navajo County in Section 4.2 under zoning is says that some revisions of the zoning ordinance may be necessary to implement this comprehensive plan. Chief among these changes may be the addition of a new commercial district to supplement any existing C-R (Commercial Residential) districts. In reading the information given to us on *spot zoning*, in paragraph 2 in the information from counsel it says, "as I will discuss shortly Courts look to Community's Comprehensive Plan or to other planning studies in determining whether the re-zoning is in fact consistent with local land use policies." That is why I asked if there was any other commercial zoning in that area, and my question is, should there be some? **Telford Chapman** stated, Staff could look at creating a block area for commercial area along SR260, but they are trying to get away from re-zoning one small parcel that is not compatible with the current uses. If Staff could look at a larger area where better highway access could be provided that would be something we could consider. **Mr. DeCross** agreed with the concerns about health, safety and welfare, and the traffic that would be going in and out on SR 260. It would make sense to make it commercial; he certainly would rather see a commercial development go in on a highway instead of a home. Mr. DeCross added that the State Highway Department might consider a three lane highway for access in a commercial area. **Robert Ingels** expressed his appreciation for the reference submitted by legal counsel on *spot zoning*. There were some other key sentences that talked about the importance of the General Plan even being amended at the time we are attempting to re-zone. Mr. Ingels also has concerns, since this is only one parcel that we are in a *spot zoning* type of action. Ron Brewer's Auction House has multiple events where there is signage and parking, etc. That is still zoned A-General, so I think the onus on the commission in making amendments in deciding how far, or how much commercial activity we have on the highway, we need to look beyond this particular application tonight to request safe ingress and egress at this spot, especially with the possibility of first time motor home users coming to the area to pick up vehicles. This could possibly be a year round activity and could be hazardous during adverse weather conditions. Would there have to be additional security provided, as far as additional police or lighting is concerned? In

the broad picture maybe we need to look at amending the General Plan, by creating an appropriate size and depth from the highway for a commercial area. This is beyond the scope of what we are looking at tonight and would require public hearings, and added that it is hard to tell what the size of the area would be, without a more specific site plan. These activities were not recommended in the General Plan, so we would be creating spot zoning which the legal opinion cautions against. This was a very professional presentation; given by the applicant, **Mr. Ingels** just has grave concerns about the safety of all parties moving on and off the highway at that location. **Joel Lawson** asked Staff the odds; (if we recommend going forward with approval to the Board) that ADOT would even allow a single entrance into that property? It doesn't seem like something they would normally do. **Jim Matteson** said he did not believe there is a current entrance to the property, and the commissioners were absolutely correct in their assumption that ADOT may not approve an access onto the State Highway at that location. **Mr. Lawson** also made the point that if a community needs extra services, someone is going to have to come in with a whole lot of money and do a whole lot of rezoning in order for the community to get the things they need, such as a store, that's not to say that an RV sales lot is not a valid need, but they would not hire a lot of local employees, so he doesn't see how it would benefit the community money wise, but felt there should be some way to bring in commercial venues without having to spend major funding dollars. **John Dalton** agreed with the other commissioners that this would be considered *spot zoning*. Three quarters of an acre is a very small parcel for a commercial development but ADOT would have to provide for some sort of access to the parcel. However, this is not the best place for this. There are plenty of other places where this could be done. This would not necessarily benefit anyone but the owners of the property and the person who is buying the property; that is one of the criteria for *spot zoning*, it must benefit others in the community, and because of that **Mr. Dalton** would have to agree with Staff for denial. Mr. Dalton suggested the possibility of Mr. Perkins getting together with other parcel owners in the area. **Mr. Perkins** wanted to know what he can do with the property. Just keep paying taxes on the property, that keep getting higher and higher, he is getting more discouraged with the bureaucracy and Washington. Where can a community get started? There is Spears Mini-store and the Auction area that sits idle until there is an auction, you can see both directions a long way with a large RV. The access to the property is level right off the highway, it's not paved but there is access. Just try to buy ¾ of an acre of property in Show Low, I just want to sell it for a fair price to the right buyer and get commercial zoning started in that area. To heck with what is in the book, some of it is good, but some of it is just stepping on people's toes, and it is just not right. **John Dalton** asked staff who owned the property in the area next to Mr. Perkins and it was disclosed that the Forest Service owns the property to the west of the parcel, and private owners have the other property close to the subject area. Discussions ensued with the commissioners advising Mr. Perkins to look to other property owners in the area, and see if they would agreed that a 300 foot strip along the highway be changed to commercial zoning. If a larger commercial strip could be formed that would eliminate the *spot zoning*. The private owner would not necessarily have to make any changes in use; it would just have to be zoned commercial. **Mr. Dalton** asked staff if this RV Operation could be run under a Special Use Permit. **Telford Chapman** answered that a Special Use Permit would not allow the RV Sales, the zoning would have to be changed to commercial. **Mr. Dalton** advised Mr. Perkins to check with the other property owners in the area. If they would agree to the 300 foot zone change, that would also make their land more valuable. The commissioner's hands are tied on this other than recommending denial because of the limited scope of the use that would only benefit the owner and the developer, as well as the size of the land. **Mr. Perkins** commented that the wheels of the government turn very slowly on this, and complained that the process took too long. He said he had been working on this for months. **Mr. Chapman** was able to display a copy of the Application submitted by Mr. Perkins, and it was shown that the application had been submitted to Planning & Zoning on August 6, 2007. This turnaround time was the minimum that could have been done for this application with the noticing requirements, and staff studies that must be accomplished before the matter can come before the commission. **Gene Wilson** asked for clarification on spot zoning requirements and **Mr. Dalton** explained that the RV sales office would not benefit the community in the way that a grocery store would, and asked Mr. Chapman to supply Mr. Wilson with a copy of the General Plan. **Robert Ingels** added that the spot zoning reference Mr. Wilson was asking about came from legal counsel and was provided to commissioners prior to this meeting. The sentence that stood out to Mr. Ingels, was "it should be noted that there is one situation where a re-zoning decision that does not conform to the comprehensive plan may nevertheless be upheld, that is where there is evidence showing significant changes in the community since the adoption of the plan that would justify a re-zoning of the property. This is especially true where the review of other factors such as the benefit to the community and the size of the re-zoned parcel, indicates that the re-zoning was not merely intended to confer a benefit to the property owner." Mr. Ingels interpretation would be that this would be a benefit to this property and not the surrounding property at this time. However, if there is evidence that would come forth that would change his opinion of that; because of the growth in Clay Springs or because it is something that is needed in that specific area for that community, he could view that language (that was read), differently. **Wendell DeCross** addressed the chairman to make a comment and a motion. **Mr. DeCross** believes the

chairman's advice is good advice; seek your neighbors out, the opinion on *spot zoning* was not written by our legal counsel here, however one of the things it does refer to is the size of the parcel subject to re-zoning. If you take a 40 acre parcel or larger as compared to a ¾ acre parcel, it makes more sense to re-zone the larger property, with that said, having moved to recognize Staff's efforts, agreeing with those efforts, in recommending denial of this request. **Ruth Ann Smith** seconded that motion. **Robert Ingels** invited the applicant to stay for the rest of the meeting; because there is a proposal for a Special Use Permit forthcoming that might present more options to explore. **Joel Lawson** spoke encouragement to the applicant because long before he was a commissioner, he also was in front of the commission under the exact same type of situation for a real estate office he wanted to open, and he too was advised to get his neighbors on board to agree to re-zone. He didn't think that would happen, but the entire mile of frontage property went along with it, and he got the zoning changed. The motion recommending **DENIAL** passed with a vote of 6 to 0. **John Dalton** reminded the applicant that this recommendation would go before the Board of Supervisors in about one month, and the Board would make the final decision.

Item # 2 - ZONE CHANGE: Discussion and possible Commission action on a request by Two Stars Trust for a Zone Change from RU-20 to RU-5 Zoning, for the subject property located at, APN: 303-18-565 in Township 14 North, Range 22 East, Section 30 of the Gila and Salt River Meridian, in the Woodruff Ranch area. This parcel is located 2 miles to the north of the Snowflake Town border. State Trust Land is to the South of the parcel. Zoning surrounding the parcel is RU 20. The general character of the neighborhood is rolling hills with Juniper trees. The area is generally flat with a few residences in site. They are large parcels of at least 20 acres. The majority are 30 acres or greater. The stated reason for the request is to allow a Zone Change to RU-5 to allow the owner to sell four 5 acre parcels and retain approximately 16 acres: The primary purpose of this district is to preserve, conserve and protect open land uses, foster orderly growth in rural areas, and prevent urban agricultural land use conflicts. Staff has received four letters of support for this zone change from parcel owners in the area, (Parcels 567, 564, 552 and 562) and one parcel (556) is owned by the applicant's daughter. The Engineering Division has no objections to the proposed Zone Change, but the Developer would need to provide adequate access easements to the parcels. All on-site drainage issues which relate and contribute to off-site drainage basins will need to be mitigated prior to building permit issuance. The Flood Control Staff has no objections to the proposed Zone Change and subsequent subdivision. The parcel is found in FEMA map, 2100B, dated 6/1/82. The parcel is in a Zone C area. Zone C is typically an area that is outside the 100 year floodplain. But the FEMA map also indicates an unnamed watercourse within the parcel. Residential construction adjacent to the watercourse will require that the finished floor be elevated and in compliance with the Navajo County Flood Damage Prevention Ordinance. Planning & Zoning Staff recommends denial of the proposed Zone Change. The land surrounding the subject parcel is zoned RU-20 and State Land is to the south of the parcel. The purpose of requiring large minimum parcels of not less than twenty (20) acres in area is to discourage small lot or residential subdivisions where public facilities such as water, sewage disposal, and governmental services such as police and fire protection are not available or could not be made currently available. They also have to look at the provision of infrastructure, such as roads. Public Works Department recommends DENIAL for the following reasons: 1. The proposed zone change, if approved, would constitute spot zoning, as no other property in the immediate area is zoned RU-5. 2. The proposed Zone Change to RU-5 is inconsistent with the uses and densities of the surrounding area. Mr. Chapman displayed an aerial map of the area.

The Applicants Daughter, **Shaeli Davis** has power of attorney over the property and acknowledged that this was her first experience with the Planning & Zoning Commission. Her parents are serving a mission for their church and will be gone for approximately two years. They bought the property and have put in sod and an orchard with approximately 500 trees. They would like to subdivide the property into four pieces, to possibly sell down the road. They came up with a list of ten neighbors who have five or less acres as you come off the main road from Snowflake, and there is one person right behind their property that is only on one acre who is building a house which he started two years ago. Ms. Davis has a personal interest in it because she has tried to sell Parcel 556 twice, but the developer did not want to go through Planning & Zoning. Other neighbors are jammed into less than one acre parcels, and another one down the road is on 2 acres. Ms. Davis bought other property in the area, and has sold portions of it, to pay off her remaining piece of property. Her parents would like to do the same thing. Most people only want to buy a five acre parcel instead of 20 acres.

In Favor: No one from the public came forward to speak in favor of this zone change.

In Opposition: **Paul McKinney** who owns parcel 573 disagreed with Ms. Davis, and said that the owners of parcels 563 and 572 are against this zone change. Mr. McKinney bought 40 acres ten years ago, and loves the area and wants it to remain in 20 acre parcels. To break it up into 5 acre parcels would lead to more parcels being split. Mr. McKinney owns horses, cows, and other animals on their farm. He saw this happen to a friend in the valley who owned property where

animals and horses were supposed to be grandfathered into the zoning, Developers wanted to build a community there and found a loophole that said the parcels had to be 10 acres or more, so they re-measured his friend's property and found that it was just under 10 acres so the grandfather clause didn't apply. He lost his horses and animals because of the zone change, and finally moved because it was re-zoned again. Mr. McKinney again stated that the people he knows who live out in the Woodruff Ranch area don't want it rezoned. They want to keep it at the current zoning of 20 or 40 acre parcels. **Telford Chapman** presented Staff's Final Comments and stated that this problem is found throughout the County where undersized parcels have been made. If we allow RU-5 zoning this would create even more parcels and it would be difficult to have paved roads and other infrastructure to support this kind of development. If we had received a request for a "section" of land and there was a provision for a subdivision the infrastructure would be provided to develop the area and the change would be more appropriate.

Commission **Joel Lawson** asked **Mr. Chapman** to display the aerial map and pointed out areas he looked at as he drove through the area, there are small parcels in between the state land and RU-20 areas that have been split, and there is state land in other areas. Mr. Lawson added that the 40 acre parcels all have a 50 foot easements for roadways all around on the outside of the parcels, which adds up to 100 foot easements between parcels. They probably wouldn't have a large problem finding access to the parcels. This property has a canyon on one side of the property which would necessitate building a road through the property. If the applicant plans to keep 16 acres and divide the rest into four 5-Acre parcels, with a road to provide access, wouldn't that bring it into subdivision regulations? **Jim Matteson** answered, yes, that is absolutely correct. **Ms. Davis** asked for clarification, and **Mr. Lawson** explained, that if you have one parcel you want to keep and are splitting the rest into four parcels, plus you have to make a road through the property to access those parcels, that would make the split into six parcels. The applicant would then have to go through the Subdivision process. **Mr. Chapman** displayed the survey map provided that shows the ingress/egress retained by the parcel. **Mr. Dalton** clarified that the road constitutes the sixth parcel. **Mr. Matteson** answered, that was correct. The map easements were discussed and it was concluded there is an easement on the south, but not currently an easement along north. That is why the parcel division requested would create the need to submit it as a subdivision. **Mr. DeCross** referred to a letter from Two Stars Trust, that stated "many of our neighbors on both sides of us have purchased parcels from 1.4 acres, 2.5 acres and up" and I'm sure we are all wondering what happened on that? I can see why they would be in support of that if they have already knocked off a couple of parcels. **Mr. Matteson** answered that they would have to be illegal splits. If this is 20 acre zoning, and people are selling off one acre parcels, it would have to be done illegally. **Mr. Dalton** asked if a building permit would be issued on a one acre parcel. **Mr. Matteson** confirmed that the building department would *not* issue a permit for an one acre parcel if the zoning is for RU-20. **Mr. Ingels** asked if there were CC&R's recorded on these parcels, and the answer was No. The zoning map shown does not show parcel splits that are smaller than RU-20. **Mr. Chapman** answered that these maps are from the Assessor's Office and are the most current. **Mr. Ingels** added, that we need to look ahead if subdivisions are the goal for this area, *now* is when we have to start planning for them. Present property owners feel it would be appropriate to buy these parcels and sell them off through minor land divisions and recoup the finances for the overall purchase, then they would have to consider fire hydrants sewage, or proper septic, long range goals for schools, parks, etc. that are right for a subdivision. This is a 20 acre minimal size and there are already people living there, and like the openness. **Ruth Ann Smith**, is in agreement with Mr. Ingels. People bought the property knowing the minimum was 20 acres so why are we looking at changing the zoning when that stipulation was in place they bought it. Reluctant to change that just because there is a handful of owners who see the benefit to dividing down to smaller parcels. That zoning was in place when they bought the property. **Joel Lawson** also lives in that area, and enjoys not having neighbors close by, but one of the things that does happen in that area, the septic system has to pass the perc test or no building permit will be issued. But felt that not all of the people who bought in the area were aware of the 20 acre zoning. It depends on how good their representative was, people don't normally assume that unless they're told. Until they get more density they won't get sewers or other utilities including electricity. He doesn't believe everyone wants a master planned community. Right now, there are people that want their privacy and the extra land they live on. They are not farmers or ranchers so what is the highest and best use of the land? Right now ranchers are still grazing on that land for free, and retain their grazing rights until the land is fenced. It is ideal for the ranchers, someone else is paying the taxes, and they are getting all the grazing rights. **John Dalton** understands why people who bought land would want to get rid of part of it, but this again is *spot zoning*. The applicant would have to go to all the neighbors and get a large chunk of land before this would be considered. That way you could legally split the land and build on it, you would not have to split the land if you didn't want to, but it would allow those who do want to sell part of it to do it legally. **Mr. Lawson** added that you would need to get all the owners together and apply for the same zoning. **Robert Ingels** added that on a re-zoning request you can start with a larger area that is properly noticed it can be downsized at the next step, but you cannot go beyond those borders.

A motion was made by **Robert Ingels** to **DENY** this request to change the zoning from RU-20 to RU-5. The motion was seconded by Tom Thomas. The motion was passed with a vote of 6-0.

Item # 3 – SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Robert and Patricia Erwin for a Special Use Permit to allow the development of a bed and breakfast in addition to a primary residence, on the subject 80 acre property for APN: 404-07-009C, in Township 12 North, Range 22 East, Section 30, of the Gila and Salt River Meridian, in the Shumway area. GENERAL CHARACTER OF NEIGHBORHOOD:

This property and all properties surrounding it are all zoned RU-1. The area is generally, rolling hills and meadows covered with Pine and Pinion foliage. The predominant use currently is ranching and grazing; land ownership is private. Current Zoning is RU-20. Uses are: Residential Single-family dwellings, schools, parks, churches, farms, public utility buildings, accessory buildings, public riding stables, plant nurseries and green houses, roadside stands. The property is located east of Shumway with the access point on Shumway Road. These areas were pointed out on the aerial map which was displayed. The stated reason for the request is to develop a Bed & Breakfast, to provide for an existing dwelling and one, additional residence to be used as a Bed & Breakfast on site. This proposed use would be permitted in the RU-1 Zoning district, only with the approval of a Special Use Permit. The parcel has been properly noticed and posted in compliance with Arizona Revised Statutes and Article 29. 2. The proposed use is NOT similar to existing legal uses in the area. 3. The proposed use is NOT allowed in the RU-1 Zoning District except with a Special Use Permit. 4. Approval of this request would grant a special privilege to this property owner that is NOT provided to other property owners within the RU-1 Zoning District, unless a Special Use Permit has been acquired. The Engineering Division has no objection to the proposed Special Use Permit, provided that adequate roadway access, paved parking, handicapped access provisions, and site drainage is provided. The Flood Control Staff recommends approval of the proposed Special Use Permit for Erwin APN 404-07-009C. The FEMA map, 2216C, dated 11/19/03, does not indicate any flood hazards. The Planning & Zoning Department recommends approval of the Special Use Permit. The development will not have a significant impact on the surrounding area. Staff Recommends APPROVAL with stipulations. **Telford Chapman** displayed the site plan to show the location of a new residence for the Erwin's, and the existing home which would be converted or utilized as a Bed & Breakfast. Their intention is to utilize the residence for one party or family at a time. This is not a multiple rooms or multi-family type situation. Staff recommends approval of Special Use Permit with the stipulations outlined on the staff report.

Applicant/Developer: **Patricia Erwin** and her husband **Robert Erwin** have lived in Shumway for three years, and have always wanted to operate a Bed & Breakfast. Mrs. Erwin trained in hotel and catering and has worked in the field for over twenty years. There is only one unit planned for this Bed & Breakfast. They basically want to share the beauty of the area with other people.

In Favor: No one from the public came forward to speak in favor of this Special Use Permit

In Opposition: **Elberta Neilson** came forward from the public and stated that with the clarification given, that there will be only one family/party at a time on the premises, that makes a lot of difference for them. Their concern was for safety issues, they just hated to see more traffic in that area. When the subdivision above them was put in, they thought they were going to get the bridge widened, but that didn't happen. If there will only be one family at a time, that wouldn't make a significant difference and would have no further objection. (Jim Matteson stated that the bridge was not widened, but the structure was reinforced to handle 20 ton vehicles instead of the 8 ton load limit before the reconstruction. Steel beams were added, and the bridge reinforcement was designed by one of the foremost bridge engineers in the southwest.)

Staff Final Comments: There is a lot of history in the area, and the property is situated on 80 acres of land. The Bed & Breakfast would be limited to one party at a time and would not have as much of an impact as a hotel or motel. Staff recommends approval of this Special Use Permit with stipulations. Several Commissioners asked Staff why the SUP applies only to the current owner and doesn't run with the land instead. These were concerns expressed by all the commissioners that if the SUP ran with the land it would improve the owner's ability to sell the property as a Bed & Breakfast. **Mr. Chapman** said that is typically done because of the requested use. A new owner would have to re-apply for a Special Use Permit, and would not be able to change the intent of the Special Use Permit without first gaining approval of the Board. **Robert Ingels** added that by granting this Special Use Permit, we are securing the maximum use for the entire 80 acre parcel. Any expansion or other uses would involve an amendment. This is a strong opportunity to be supportive of maintaining a rural way of life, in Shumway. **Joel Lawson** stated that he would be inclined to exclude the stipulation of the SUP running only with the current owner. He believes it would be a hardship on the people if they at some point want to sell Bed & Breakfast to someone else. It is not conducive that way. During a lot of the pioneer events held in that area all the hotels are full, so a new Bed & Breakfast would be a big plus to the area and for those who would

want a beautiful place to stay. **Jim Matteson** responded to the question of only using the property for that one purpose only. They have the right under the RU-1 zoning to subdivide as the neighbors have, and they are participating on a fairly large financial basis with paving on Shumway road. Their assessment is pretty significant so even though the operation they are requesting for a relatively small dwelling to be turned into a single B&B they could come in and ask for a subdivision and apply for 80 lots. If money were the issue they wouldn't be trying to bring in a single family Bed & Breakfast to the area. **Mr. Lawson** wanted to point out that it could cause a hardship on the owner if they wanted to sell the property as a Bed & Breakfast, it could inhibit them from doing more. **Mr. Dalton** added that with the change of ownership the new owner would have to come in and apply for a new permit. That would give the County a chance to revisit the terms and requirements of the Bed & Breakfast, so that another owner couldn't come in and put something in that wasn't allowed. **Mr. DeCross** agreed with the other commissioners and supports the project 100%, but asked if the Planning & Zoning Staff had the right to review a permit, and if it is outside the use for the permit, revoke the permit? **Mr. Matteson** affirmed that if they violate the terms of the Special Use Permit it can be revoked. But there has to be a reason to revisit the permit, either the proponent requests a change or if there has been a violation of the conditions of the permit, it could be revoked, or changed at that point. **Tom Thomas** asked Staff; if this Special Use Permit is run with the land would this be considered a restriction of some kind such as, the owners want to sell the land, but the people who want to buy the land don't want the Bed & Breakfast Special Use Permit in the future? Would that mean that the new owner would have to request a change in the Special Use Permit? **Mr. Matteson** said that was exactly right, and explained that this kind of land use is unique to the people who operate it. In taking this through the staff levels they were supportive of this as long as the "use" was kept with the people who knew what they were doing, rather than someone who might not operate it in the way it was intended such as a long term rental, and would make it a detriment to the property. We have a right to revoke the permit but that would take initiating an action by the staff, and would involve using code enforcement procedures. If the "use" goes with the people instead of the property, the County would automatically revisit the whole issue. **Mr. Dalton** added that the person would absolutely have to know about the Special Use Permit. This is a Stop Gap measure on the Special Use Permit. This lets the people know right up front. **Wendell DeCross** understood the conditions, but when you sell a Bed & Breakfast property, it is usually going to be purchased by someone who wants to run a Bed & Breakfast, and you still have the right to revoke the permit if it is not being run properly. With that said, **Mr. DeCross** made a motion to support the recommendations of Staff to APPROVE this Special Use Permit to the Board of Supervisors with the stipulations. **RECOMMENDED STIPULATIONS:** *1. The Special Use Permit shall run with the current owner. 2. This Special Use Permit shall permit the development of a bed and breakfast with one primary residence, on the subject property. 3. The permitted Special Use shall be allowed to occur only in the location shown on the approved site plan. 4. No expansion of the Special Use shall be allowed without an amendment to the Special Use Permit. 5. No building or structure may be occupied prior to complete compliance with all appropriate Building Department requirements and the issuance of a building permit for the proposed structures. 6. Each residence shall have a separate septic system, meeting all ADEQ requirements.* **Robert Ingels** seconded the motion. The motion unanimously carried with a vote of 6-0.

Item # 4 - Possible approval of August 16, 2007 Minutes

A motion was made by **Wendell DeCross** to approve the minutes for August 16, 2007. **Robert Ingels** seconded the motion. Motion unanimously carried with a vote of 6-0.

Item # 5 - Commissioners' comments and directions to staff. Commissioners may use this time to offer additional comments regarding any item on this agenda or any other topic; and the Commission may direct Development Services Department staff to study or provide additional information on topics of the Commissions' choosing. **Wendell DeCross** asked Staff look into the house being built on 1 acre in the RU20 zone discussed in Item #2. And would like to find out how they got a permit, or if they got a permit for the property in the first place, if they are already splitting up the parcels they should not be able to build on them. Item #1 regarding the question of 90 days being too long for submittals, **Mr. DeCross** understands the frustration involved in getting applications submitted and agrees the review time of 4 to 5 weeks is still too long. It is frustrating trying to get things done, and would recommend to the Board of Supervisors that more staff is needed. **John Dalton**, stated that Staff did a good job getting the application through as quickly as they did. **Telford Chapman** explained that it takes from five to six weeks normally. They must have two weeks to send to the newspaper, which must be submitted 20 days prior to the meeting to comply with State Statutes. That leaves three weeks to review the project and get it on the agenda. There was no way to get that item on the August meeting. **Jim Matteson** added that it has to be reviewed by staff, and for a thorough review the project has to be reviewed by Public Works three divisions; Planning, Engineering, and Flood Control, the goal is for a turnaround of 10 working days. This item was put

on the agenda in the absolute minimum time. **Mr. DeCross** would still like to see how we could speed things up. **Mr. Matteson** responded that all the County Departments are participating in a Strategic Plan to foster good communications internally and externally to see how we can better service the public, who we work for. Sometime applications have to be returned to the applicant because it wasn't complete or correct. We don't want it to come before the commission until it is complete, but we have to get paperwork first. Commissioners thanked Staff for providing the Subdivision Regulations with changes highlighted. **Mr. Matteson** added that all your comments were responded to, and the changes asked for have been made. **John Dalton** agreed with Mr. DeCross, and expressed his appreciation to the commissioners for the time they take to see the places, and study the regulations and the paperwork submitted by Staff. And wanted to reinforce how superb this staff's work has been with the power point presentation, getting the P & Z packets well in advance, as for the directions to staff support, things are going very right, we all have work to get better at efficiency. With that, the reminder for the Boards & Commissions Conference in December was discussed. It is a one day event that is very worthwhile. Mr. Dalton thanked those who came to the Subdivision Regulations workshop. **Robert Ingels** informed the Commission and Staff of his decision to continue to serve on the Commission. He did not feel that his appointment to the Pinetop Lakeside Commission would interfere with his job as a Navajo County Planning & Zoning Commissioner. With there being no further business to come before the Planning and Zoning Commission, **Ruth Ann Smith** made a motion to adjourn the meeting. **Robert Ingels** seconded the motion. Motion unanimously carried with a vote of 6-0. The meeting adjourned at 8:15 p.m.

The Commission reserves the right to change the order of any Agenda item.

The Commission reserves the right to adjourn into executive session when needed pursuant to ARS §38-431.03(A) (3) for legal consultation on the above-described agenda items.

NOTE: a copy of the agenda background material provided to the Commission Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo County Complex, Holbrook, Arizona, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Approved this _____ day of _____, _____.

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Secretary, Navajo County
Planning and Zoning Department